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प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill has been introduced in the Rajya Sabha on the 10th September, 1996:—

Bill No. XXXIV of 1996

A Bill further to amend the Companies Act, 1956.

BE it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Companies (Amendment) Act, 1996.

Short title
and commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

1 of 1956.

2. In section 17 of the Companies Act, 1956 (hereinafter referred to as the principal Act),—

Amendment of
section 17.

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The alteration of the provisions of memorandum relating to the change of the place of its registered office from one State to another shall not take effect unless it is confirmed by the Company Law Board on petition.”;

(b) in sub-section (5), the words “either wholly or in part, and” shall be omitted.

Amendment of
section 18.

3. In section 18 of the principal Act, for sub-section (1), the following sub-section shall be substituted namely:—

“(1) A company shall file with the Registrar—

(a) a special resolution passed by a company in relation to clauses (a) to (g) of sub-section (1) of section 17, within one month from the date of such resolution; or

(b) a certified copy of the order of the Company Law Board made under sub-section (5) of that section confirming the alteration, within three months from the date of order,

as the case may be, together with a printed copy of the memorandum as altered and the Registrar shall register the same and certify the registration under his hand within one month from the date of filing of such documents.”.

Amendment of
section 58A.

4. In section 58A of the principal Act, in sub-section (2),—

(a) in clause (a), the word “and” shall be omitted;

(b) in clause (b), for the word “prescribed”, the words “prescribed, and” shall be substituted;

(c) after clause (b), the following clause shall be inserted, namely:—

“(c) the company is not in default in the repayment of any deposit or part thereof and any interest thereupon in accordance with the terms and conditions of such deposit.”.

Amendment of
section 80.

5. In section 80 of the principal Act, for sub-section (5A), the following sub-section shall be substituted, namely:—

“(5A) Notwithstanding anything contained in this Act, no company limited by shares shall, after the commencement of the Companies (Amendment) Act, 1996, issue any preference share which is irredeemable or is redeemable after the expiry of a period of twenty years from the date of its issue.”.

Substitution
of new sections
for section 86.
New issues of
share capital to
be of three
kinds.

6. For section 86 of the principal Act, the following sections shall be substituted, namely:—

“86. The share capital of a company limited by shares formed after the commencement of this Act, and issued after such commencement, shall be of the following kinds, namely:—

(a) equity share capital with voting rights;

(b) equity share capital without voting rights not exceeding twenty-five per cent. of the issued equity share capital with voting rights, issued after the commencement of the Companies (Amendment) Act, 1996; and

(c) preference share capital.

Issue of share
capital without
voting rights.

86A. (1) No company shall issue equity share capital without voting rights unless the issue is authorized by its articles and approved by a special resolution and fulfils such other conditions as may be prescribed.

(2) The special resolution referred to in sub-section (1) shall also provide for the following, namely:—

(a) the price at which the equity share capital without voting rights shall be issued;

(b) the higher rate of dividend which the equity share capital without voting rights shall carry;

(c) any other matter that may be prescribed.

(3) No company shall be permitted to convert its equity share capital with voting rights into equity share capital without voting rights.

(4) Notwithstanding anything contained in this Act, a member of a company limited by shares and holding any equity share without voting rights shall be entitled to—

(a) bonus shares and rights shares without voting rights, and

(b) all rights as a member of the company (other than right to vote on resolution placed before the company at any of its meeting) including the right to receive a copy of every balance sheet (including profit and loss account, the auditors' report and every other document required by law to be annexed or attached, as the case may be, to the balance sheet) as specified in sub-section (1) of section 219."

7. In section 153B of the principal Act, in sub-section (4),—

Amendment of section 153B.

(a) in clause (b), in sub-clause (ii), for the words "whichever is less.", the words "whichever is less, or" shall be substituted;

(b) after clause (b) and before the *Explanation*, the following clause shall be inserted, namely:—

"(c) where the trust is created, to set up a Mutual Fund or Venture Capital Fund or such other fund as may be approved by the Securities and Exchange Board of India established under sub-section (1) of section 3 of the Securities and Exchange Board of India Act, 1992."

15 of 1992.

8. In section 370 of the principal Act, after sub-section (1F), the following sub-section shall be inserted, namely:—

Amendment of section 370.

"(1G) A company, which has defaulted in the repayment of any deposit referred to in section 58A or part thereof or interest thereupon in accordance with the terms and conditions of such deposit, shall not make any loan or give guarantee under this section till the default is made good."

9. In section 372 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

Amendment of section 372.

"(3A) A company, which has defaulted in the repayment of any deposit referred to in section 58A or part thereof or interest due thereupon in accordance with the terms and conditions of such deposit, shall not make any investment under this section till the default is made good."

10. In section 530 of the principal Act, in sub-section (2), for the words "exceed one thousand rupees", the words "exceed such sum as may be notified by the Central Government in the Official Gazette" shall be substituted.

Amendment of section 530.

11. After section 610 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 610A.

'610A. (1) Notwithstanding anything contained in any other law for the time being in force,—

Admissibility of micro films, facsimile copies of documents, computer printouts and documents on computer media as documents and as evidence.

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer (hereinafter referred to as a "computer printout"), if the conditions mentioned in sub-section (2) are satisfied,

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence should be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer printout shall be the following, namely:—

(a) the information contained in the statement reproduces or is derived from returns and document filed by the company on paper or on computer network, floppy, diskette, magnetic cartridge tape, CD-rom or any other computer readable media;

(b) while receiving returns or documents on computer media, necessary checks by scanning the documents filed on computer media will be carried out and media will be duly authenticated by the Registrar; and

(c) the Registrar shall also take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.'

STATEMENT OF OBJECTS AND REASONS

In 1977, Government appointed a Committee for the amendment of the Companies Act, 1956 and the Monopolies and Restrictive Trade Practices Act, 1969, popularly known as the Sachar Committee. Some of the recommendations of the Sachar Committee led to the Companies (Amendment) Acts of 1985 and 1988. However, while considering the proposals which led to the enactment of the Companies (Amendment) Act, 1988, a decision was taken by Government for a comprehensive review of the existing law.

2. Accordingly, the Companies Bill, 1993 was introduced in the Rajya Sabha on 14th May, 1993. The Bill has not yet been taken up for consideration. In view of suggestions from the different forums the Government feels that the Bill would require comprehensive revision keeping in view the changes which have taken place in the capital market, operation of corporate sector and liberalisation policies. For this purpose and having due regard to the statement made on 22nd July, 1996 in Parliament, the Government has set up a working group to revise the Act. Since, this process would take a considerable time to complete its work, it is felt that some changes in the Companies Act are imminent, therefore, it is proposed to amend the Act, *inter alia*, as follows, namely:—

(i) to provide protection to the depositors;

(ii) to provide protection to employees' interest in case of winding up of a company;

(iii) to simplify some procedural and legal requirements in the interest of corporate sector.

3. The Bill seeks to achieve the above objectives.

P. CHIDAMBARAM.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to substitute new sections for section 86. In new section 86 it is proposed to provide three kinds of share capital, namely, equity share capital with voting rights; equity share capital without voting rights and preference share capital. The Central Government has been empowered to prescribe by rules the requirements which a company is to fulfil before it can be permitted to issue equity share capital without voting rights.

2. Clause 10 of the Bill seeks to empower the Central Government to prescribe the sums for the payment of debt (salary and wages) on priority in the case of winding up of a company.

3. The matter in relation to which such rules may be made are matters of details and procedure, the delegation of legislative power is, therefore, of a normal character.

V.S. RAMA DEVI,
Secretary-General.